

11 International taxation

OVERVIEW

For the 2009–10 income year:

- 900,729 individuals lodged returns with foreign sourced income, a 5.7% decrease from 2008–09
- individual foreign sourced income was \$3.0 billion, a decrease of 2.6% from 2008–09
- corporate net foreign income was \$7.5 billion, a decrease of 25.4% from 2008–09
- super funds foreign income was \$7.5 billion, an increase of 39.3% from 2008–09.

INTRODUCTION

This chapter provides information on the international dealings of Australian residents as reported on individual, company, partnership, trust and super fund tax returns. Australian residents are generally taxed on their worldwide income whereas non-residents are generally taxed only on their Australian-sourced income (and some specific amounts not dependent on source).

The residency tests the ATO uses to determine residency status for income tax purposes are not the same as those used by other Australian agencies. These residency tests are discussed throughout this chapter.

NEW FEATURES AND INFORMATION

Statistics for the 2009–10 income year reported in this chapter may have been affected by changes to the tax treatment of income earned in overseas employment. Section 23AG of the *Income Tax Assessment Act 1936* (ITAA 1936) sets out what foreign employment income is eligible for exemption from income tax in Australia. Changes were made to section 23AG with effect from 1 July 2009 which limited the exemption for foreign employment income.

Tables 11.7 and 11.8 from last years chapter have now been combined into the new table 11.7.

RESIDENCY STATUS

Generally, individuals are resident of Australia for tax purposes if they 'reside' here under ordinary concepts. Individuals may also be treated as residents in certain circumstances. This happens if they have an Australian domicile, unless their permanent home is outside Australia, or if they have actually been in Australia for more than half the income year, unless their usual home is overseas and they do not intend to live in Australia. A member of a Commonwealth superannuation fund, or spouse or child of that person, may also be treated as a resident for tax purposes.

For the 2009–10 income year, lodgments by non-residents increased by 5.0% to 77,679. However, they only accounted for 0.6% of the total individual tax returns lodged.

Table 11.1 Individuals, by residency status and taxable income, 2008–09 and 2009–10 income year

Taxable income	2008–09 ¹		2009–10 ¹	
	Resident No.	Non-resident No.	Resident No.	Non-resident No.
\$0–\$24,999	4,378,134	66,441	4,338,444	69,629
\$25,000–\$49,999	3,964,685	3,738	3,871,587	3,891
\$50,000–\$74,999	2,157,869	1,418	2,195,955	1,446
\$75,000–\$99,999	928,307	850	1,009,219	931
\$100,000–\$199,999	644,873	1,063	725,264	1,203
\$200,000 or more	143,840	497	161,883	579
Total	12,217,708	74,007	12,302,352	77,679

¹ Data for the 2008–09 and 2009–10 income years includes data processed up to 31 October 2010 and 31 October 2011 respectively.

A company is a resident of Australia for tax purposes if:

- it is incorporated in Australia, or
- not incorporated in Australia but carries on business in Australia and has either:
 - its central management and control in Australia, or
 - its voting power controlled by Australian resident shareholders.

For the 2009–10 income year, the combined number of non-resident companies and permanent establishments continued to account for less than 1% of total companies.

Table 11.2 Companies by residency status, 2008–09 and 2009–10 income years

Residency status	2008–09 ¹ No.	2009–10 ¹ No.
Resident	760,774	775,508
Non-resident	1,174	1,170
Permanent establishment ²	494	529
Total	762,442	777,207

¹ Data for the 2008–09 and 2009–10 income years includes data processed up to 31 October 2010 and 31 October 2011 respectively.

² In general, a permanent establishment is a fixed place of business in one country at or through which a resident of another country carries on business. For a comprehensive definition, refer to the definition in the ITAA 1936 or, where applicable, the appropriate double tax agreement.

INDIVIDUAL FOREIGN INCOME

The assessable income of a resident will include income derived directly or indirectly from sources outside of Australia during the income year.

Individuals reported total foreign sourced income of \$3.0 billion for 2009–10, a 2.6% decrease from the previous year.

Table 11.3 Individual assessable foreign sourced income, by taxable income, 2009–10 income years

	2009–10 ¹	
	No.	\$m
\$6,000 or less ²	61,560	57
\$6,001–\$35,000	349,716	693
\$35,001–\$80,000	291,408	632
\$80,001–\$180,000	151,832	665
\$180,001 or more	46,213	995
Total³	900,729	3,042

1 Data for the 2009–10 income year includes data processed up 31 October 2011.

2 Taxable income ranges align with the 2009–10 individual income tax thresholds.

3 Totals may differ from the sum of the components due to rounding.

COMPANY FOREIGN INCOME

For the 2009–10 income year, the net foreign income of companies decreased 25.4% to \$7.5 billion. The finance and insurance services industry remained the highest contributor to company net foreign income at 61.7%.

Table 11.4 Companies' net foreign income, by industry, 2008–09 and 2009–10 income years

Industry ¹	2008–09 ²		2009–10 ²	
	No.	\$m	No.	\$m
Agriculture, forestry and fishing	310	19	281	15
Mining	74	2,358	79	243
Manufacturing	468	1,198	448	869
Electricity, gas, water and waste services	18	36	17	14
Construction	430	80	400	86
Wholesale trade	483	409	480	351
Retail trade	309	80	290	91
Accommodation and food services	156	42	149	50
Transport, postal and warehousing	171	52	149	–76
Information media and telecommunications	227	226	221	185
Finance and insurance services	6,215	4,208	5,437	4,608
Rental, hiring and real estate services	1,177	334	1,046	225
Professional, scientific and technical services	1,481	661	1,445	505
Administrative and support services	193	60	169	79
Public administration and safety	27	3	22	5
Education and training	79	9	80	11
Health care and social assistance	216	32	223	29
Arts and recreational services	151	35	144	36
Other services	200	34	176	27
Other ³	1,805	130	1,728	115
Total⁴	14,190	10,006	12,984	7,466

1 The industry groups are classified based on the Australian and New Zealand Standard Industrial Classification (ANZSIC) 2006 codes on the Australian Business Register.

2 Data for the 2008–09 and 2009–10 income years includes data processed up to 31 October 2010 and 31 October 2011 respectively.

3 Includes companies lodging under the 'nil company returns' code, which includes non-taxable companies or companies with nil company returns and companies that did not state their industry; and/or companies registered under the government administration and defence industry code.

4 Totals may differ from the sum of the components due to rounding.

During the 2009–10 income year, overseas interest expenses decreased by \$9.2 billion, or 25.7%.

Table 11.5 Selected company international tax labels, 2008–09 and 2009–10 income years

Selected labels	No.	2008–09 ¹	No.	2009–10 ¹
		\$m		\$m
Net foreign income	14,190	10,006	12,984	7,466
Interest expenses overseas	8,685	35,774	9,472	26,569
Lease expenses overseas	1,227	584	1,553	998
Royalty expense overseas	1,516	5,638	1,445	4,811
Attributed foreign income				
Listed country	48	71	48	156
Section 404 country	187	970	182	737
Unlisted country	150	432	131	475

1 Data for the 2008–09 and 2009–10 income years includes data processed up to 31 October 2010 and 31 October 2011 respectively.

SUPERANNUATION FUND FOREIGN INCOME

Superannuation fund returns are prepared under the assumption of residence, except for a non-complying fund that is a foreign superannuation fund in which case the trustee is assumed to be a non-resident.

Gross foreign income of super funds decreased significantly during 2009–10, down \$4.1 billion or 28.4% from 2008–09. Both self-managed super funds and APRA regulated super funds experienced a decline.

However, net foreign income of super funds did increase by 39.3% from the previous year, to a total of \$7.5 billion. The largest increase relates to net foreign income of APRA regulated super funds, with an increase of 53.5%.

Table 11.6 Super fund foreign income, 2008–09 and 2009–10 income years

Selected labels	No.	2008–09 ¹	No.	2009–10 ¹
		\$m		\$m
Gross foreign income				
Self-managed super funds	155,314	723	159,938	345
APRA and other super funds ²	4,056	13,609	3,515	9,923
Total³	159,370	14,331	163,453	10,268
Net foreign income				
Self-managed super funds	155,158	716	159,699	341
APRA and other super funds ²	4,054	4,636	3,475	7,116
Total³	159,212	5,352	163,174	7,457

1 Data for the 2008–09 and 2009–10 income years includes data processed up to 31 October 2010 and 31 October 2011 respectively.

2 Australian Prudential Regulatory Authority (APRA) regulated funds. Includes funds that nominated 'other' on their tax return, and non-regulated funds.

3 Totals may differ from the sum of the components due to rounding.

PARTNERSHIP AND TRUST FOREIGN INCOME

Partnership and trust returns are completed on the assumption of residence, but non-resident partners or beneficiaries are generally only taxed on their interest in Australian sourced income and some specific amounts that are not dependent on source.

Foreign income reported by partnerships remained relatively stable in 2009–10 while trusts reported a significant increase to \$16.9 billion.

Table 11.7 Partnership and trust assessable foreign income, 2008–09 and 2009–10 income years

Selected labels	2008–09 ¹		2009–10 ¹	
	No.	\$m	No.	\$m
Partnership				
Attributed foreign income	28	1	24	1
Net foreign income	2,548	148	2,243	139
Gross foreign income	2,579	198	2,265	232
Trust				
Attributed foreign income	621	209	556	258
Net foreign income	55,928	6,430	56,615	16,884
Gross foreign income	56,108	23,931	56,736	24,298

¹ Data for the 2008–09 and 2009–10 income years includes data processed up to 31 October 2010 and 31 October 2011 respectively. Data for 2008–09 has been revised.

SOURCE OF INTERNATIONAL TAXATION STATISTICS

The international tax statistics in this chapter are sourced from 2009 and 2010 individual, company, partnership, trust and super fund income tax returns processed by 31 October 2010 and 31 October 2011 respectively. The statistics reported are not necessarily complete as the proportion of tax returns processed by 31 October each year can vary. We recommend you exercise caution when comparing the statistics for the current year and previous years.

A copy of each of the individual, company, partnership, trust and super return forms is in the appendix. You can view or download them in PDF file from the attached CD-ROM or from the online version of *Taxation statistics* on our website at www.ato.gov.au

INTERNATIONAL CHAPTER TABLES

The international chapter tables are now on the attached CD-ROM and included in the online version of this publication on our website. You can now view or download all the chapter tables in Excel.

LIST OF INTERNATIONAL TAXATION DETAILED TABLES

The following detailed table is on the attached CD-ROM and included in the online version of this publication on our website. You can now view or download the table as a PDF or Excel file.

Table 1 Selected international items, 1989–90 to 2009–10 income years

This table shows selected items from the individual, company, partnership, trust and super fund tax returns for income years 1989–90 to 2009–10. The number of records and amounts are shown.

❗ To meet privacy regulations, statistics for some items may not be included in this table.